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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/706,481
Filing Date: November 10, 2003
Appellant(s): SANCHEZ ET AL.

John Titus
THE CAVANAGH LAW FIRM
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/13/07 appealing from the Office action mailed 9/26/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6811496	Wahl et al.	11-2004
6409612	Evans et al.	06-2002
6015354	Ahn et al.	01-2000

6162133 Peterson 12-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1-5, 11, 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl et al. (USPN 6811496).

Regarding claim 1, Wahl implicitly discloses a method of manufacturing a golf club head, comprising forming a club head body comprising a hollow body having a face adapted for impacting a golf ball, wherein the club head body further comprising a body surface having a weight cavity formed therein. The weight cavity being defined by a side wall and a bottom wall; providing a plurality of balance weights, wherein each of the plurality of balance weights having an upper surface, a lower surface and a lateral side joining the upper surface and the lower surface; selecting one of the plurality of balance weights; attaching one of the plurality of balance weights rigidly via the intermediate layer, to the club head body within weight cavity; the selecting a cover wherein the cover comprising an outer surface, an inner surface and a perimeter wall; and attaching the cover to the club head body so that the cover substantially covers one of the

plurality of balance weights (See Figures 5A and 5B). Applicant does not disclose why it is critical to having a plurality of covers for one club head. Applicant notes that each cover identifies the type of club used. One having ordinary skill in the art would have found the cover of Wahl et al. to perform equally as well since the primary objective of the cover is to conceal the weights and, therefore, would have been obvious to use any type of cover because of such.

Regarding claim 2, Wahl et al. discloses the plurality of balance weights comprise weights of differing mass (See Column 5, lines 28 through 65).

Regarding claim 3, Wahl et al. discloses the plurality of balance weights comprise weights of differing densities (See Column 5, lines 28 through 65).

Regarding claim 4, Wahl et al. discloses the attaching of one of the plurality of balance weights to the club head body within the weight cavity comprises bonding the lateral side of one of the plurality of balance weights to the side wall of the cavity via the intermediate layer (See Figure 5A and 5B).

Regarding claim 5, Wahl et al. discloses the attaching of one of the plurality of balance weights to the club head body within the weight cavity comprises bonding the lower side of one of the plurality of balance weights to the side wall of the cavity via the intermediate layer (See Figure 5A and 5B).

Regarding claim 11, Wahl et al. discloses a golf club head comprising a club head body comprising a hollow body having a face adapted for impacting a golf ball, said club head body further comprising a body surface having a weight cavity formed therein, the weight cavity being defined by a side wall and a bottom wall; a balance

weight disposed within said weight cavity and rigidly attached to said club head body via the intermediate layer, said balance weight selected from a plurality of balance weights, each of said plurality of balance weights having an upper surface, a lower surface and a lateral side joining the upper surface and the lower surface, said plurality of balance weights comprising weights having different masses; a cover selected from a plurality of covers and attached to said club head body so that said selected cover substantially covers said balance weight, each of said plurality of covers having an outer surface, an inner surface and a perimeter wall (See Figures 5A and 5B).

Regarding claim 12, Wahl et al. discloses the plurality of balance weights comprise weights of differing densities (See Column 5, lines 28 through 65).

Regarding claim 15, Applicant does not disclose why the club head being a wood is critical in order to attain the invention. Furthermore, applicant notes that the invention should not be limited thereto (See Page 4, first paragraph under the Detailed Description). One having ordinary skill in the art would have found it obvious to having any style of club head so long as it is hollow, has a weight cavity, weights, and a cover in order to optimize the center of gravity to that desired by the user.

Regarding claim 16, Wahl et al. shows the cavity located in a substantially rearward direction from the face (See Figure 5A).

2. Claims 7-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl et al. (USPN 681 1496) in view of Peterson (USPN 6162133).

Regarding claim 7 and 13, Wahl et al. does not disclose having a slot in the side wall of the weight cavity and a cover having tabs. Peterson discloses a golf clubhead

having a slot in a side wall and a cover having tabs for snap fit securement to the club head (See Abstract', Figure 3., Column 5, lines 47 through 67 and Column 6, lines 1 through 3). One having ordinary skill in the art would have found it obvious to have the cover of Wahl et al. to have a snap fit, as taught by Peterson, in order to releasably secure the weights within the club head.

Regarding claim 8 and 9, Wahl et al. does not disclose having a slot in the side wall of the weight cavity and a cover having tabs. Peterson discloses a golf clubhead having a slot in a side wall and a cover having tabs for snap fit securement to the club head (See Abstract; Figure 3; Column 5, lines 47 through 67; and Column 6, lines 1 through 3). The combination would imply that the cavity has a floor and reveal. One having ordinary skill in the art would have found it obvious to have the cover of Wahl et al. to have a snap fit, as taught by Peterson, in order to releasably secure the weights within the club head.

Regarding claim 10, the combination as applied to claim 8 and 9 implies that the cover is bonded to the cover cavity.

3. Claims 6-10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl et al. (USPN 6811496) in view of Ahn et al. (USPN 6015354).

Regarding claim 6, Wahl et al. does not disclose the weights being secured to the balance weight with screws. Ahn et al. discloses a golf club head having weights secured by screws (See Figures 8-10 and Column 5, lines 12 through 41). One having ordinary skill in the art would have found it obvious to incorporate screws, as taught by Ahn et al., into Wahl et al. in order to further secure the weights to the club head.

Regarding claims 7 and 13, Wahl et al. does not disclose having a slot in the side wall of the weight cavity and a cover having tabs. Ahn et al. discloses a golf clubhead having a slot in a side wall and a cover having tabs for snap fit securement to the club head (See Figure 18 and Column 6, lines 39 through 55). One having ordinary skill in the art would have found it obvious to have the cover of Wahl et al. to have a snap fit, as taught by Ahn et al., in order to releasably secure the weights within the club head.

Regarding claim 8 and 9, Wahl et al. does not disclose having a slot in the side wall of the weight cavity and a cover having tabs. Ahn et al. discloses a golf clubhead having a slot in a side wall and a cover having tabs for snap fit securement to the club head (See Figure 18 and Column 6, lines 39 through 55). The combination would imply that the cavity has a floor and reveal. One having ordinary skill in the ad would have found it obvious to have the cover of Wahl et al. to have a snap fit, as taught by Ahn et al, in order to releasably secure the weights within the club head.

Regarding claim 10, the combination as applied to claim 8 and 9 implies that the cover is bonded to the cover cavity.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wahl et al. (USPN 6811496) in view of Evans et al. (USPN 6409612).

Regarding claim 14, Wahl et al. does not disclose having information on the cover. Evans et al. discloses a golf club head having a weight cover having indicia including the model designation thereon (See Figure 1). One having ordinary skill in the art would have found it obvious to place indicia thereon, as taught by Evans et al., in order to identify the club head and aesthetic appearance.

(10) Response to Argument

Appellant arguments are mostly geared to the Wahl et al. reference in which the applicant argues that Wahl et al. discloses a club head with a vibration dampening insert and that Wahl et a. does not disclose weight rigidly attached with a weight cavity. The examiner disagrees. Wahl et al. specifically discloses in the background of the invention the problem to be solved. Wahl et al. notes that it has been shown advantageous to place weight in the area proximate the sole to lower the center of gravity and notes that though it is effective vibration is an issue. Wahl et al. merely places dampening sleeves over the weights to fix the vibration issue. Though, Wahl et al. includes a vibration dampening means, it is still geared to weighting the club head and lowering the center of gravity. With respect to the weights being rigidly attached, the appellant cites Column 2, lines 54-62, of Wahl et al. and states that there must be motion between the weight and the intermediate layer. Appellant also cites R. Vierck, Vibration Analysis, making reference to dry friction dampening and hysteresis damping as supporting evidence. The weight within the cavity of Wahl et al. does not move; the friction is created by the compression of the sleeve. Wahl et al. uses the cover to hold the weight in place, thus the only movement that occurs is from the compression of the sleeve. If the weight moved, the weights would smack the cover of the weight cavity, which would defeat the purpose of improving the sound (See Column 2, lines 13 through 24) which is a goal that Wahl et al. also solved. The instant invention would require the weight to move to a degree also. When striking a golf ball the top, sole, and sides of the club head bend to degrees due to absorption of the impact. This bending

would cause spacing between the weight member and the weight cavity to a degree such that there are points of separation. Thus, in comparison to the applicant's invention, "rigid" is interpreted as not moving in large degrees. In order for the weight to be rigidly attached the weight would have had to been integrally formed with the club head. Thus, the argument that the Wahl et al. is does not suggest the claimed invention does not unobviate the claims.

With respect to arguments of Wahl et al. in combination with Ahn et al., Peterson, and Evans, Applicant argument are primarily focused on the Wahl et al. reference; therefore, see the above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Alvin A. Hunter, Jr.

Conferees:

EUGENE KIM
SUPERVISORY PATENT EXAMINER

XUAN M. THAI
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